



Appeal Decision

Inquiry held on 3, 4 and 5 December 2024

Site visit made on 3 and 4 December 2024

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2025

Appeal Ref: APP/H4315/W/24/3350503

Land west of Mill Lane, Newton Le Willows, WA12 8DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Wain Homes (North West) Ltd against the decision of St Helens Metropolitan Borough Council (St Helens MBC).
- The application Ref is P/2023/0619/FUL.
- The development proposed is the resubmission of full planning application P/2022/0575/FUL for the residential development for 92 dwellings including access, associated works and landscaping.

Decision

1. The appeal is allowed, and planning permission is granted for resubmission of full planning application P/2022/0575/FUL for the residential development for 92 dwellings including access, associated works and landscaping at Land west of Mill Lane, Newton Le Willows, WA12 8DE in accordance with the terms of the application, Ref P/2023/0619/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Inquiry opened on 3 December 2024 and sat on the following days: 3-5 December 2024. Closing submissions took place on 5 December 2024. Unaccompanied site visits took place after sitting on the first day, and prior to resuming on the second day.
3. The Council issued its decision on 15 March 2024 with six reasons for refusal (RfR) following a delegated decision by its Officers to refuse the planning application. A Case Management Conference (CMC) was held, which I led on 23 October 2024 to discuss the ongoing management of the Inquiry, the likely main issues, including the best method for hearing the evidence, and to ensure the efficient and effective running of the Inquiry. At the CMC, the appellant indicated that they intended to address reasons for refusal and both parties agreed that dependant on the ongoing discussions between the parties, RfR 3 to 6 may fall away.
4. At the CMC a reduction to the proposed number of dwellings from 99 to 92 was discussed. It was agreed that this change would be acceptable procedurally, particularly as it involves a reduction in development and providing that a period of additional consultation was undertaken. As part of the appeal notification, a bespoke letter dated 5 November 2024 was drafted that also included a 21-day consultation period for the amendments to the Appeal proposal. I am satisfied that any interested parties would have had the opportunity to provide additional

comments on the amended Appeal proposal before the opening of the Inquiry and would therefore not be prejudiced. I have dealt with the Appeal on this basis and the revised number of dwellings.

5. Consequently, the description of the development in the banner heading above is taken from the application and appeal forms, albeit I have changed the number of dwellings proposed, since this accurately reflects the lower number of dwellings that the Appellant now seeks compared to the number sought at planning application stage. Additionally, the revised details sought to overcome RfR 2 (in part), as the concerns originally raised by the Council relating to the internal layout of the proposed development as set out in the second part of RfR 2 are no longer in dispute. Furthermore, RfR 3, 4 and 5 are also no longer in dispute. This was confirmed verbally at the Inquiry and within the Statement of Common Ground. On this basis, and on the evidence before me, I find no reason to disagree with the latest positions of the parties on these matters.
6. During discussions at the Inquiry, it became apparent that as part of RfR2, crime and anti-social behaviour was considered a key issue by the Council with particular regard to the design of the access road. Thus, for clarity, I have subdivided the second main issue initially proposed in the CMC to more accurately reflect this position and the subsequent matters raised during the Inquiry. This approach does not alter the subject matter discussed at the Inquiry or the evidence provided. Consequently, no party would be prejudiced by this approach.
7. Multiple obligations have been provided which are identical in all respects except that each is signed by a different party, which are known as 'counterpart' obligations. These signed planning obligations by way of Section 106 of the Town and Country Planning Act 1990 (the s.106) have been provided as part of the appeal, with the final counterpart versions dated 9 January 2025, submitted by agreement after the Inquiry closed. The s.106 includes all of the planning obligations sought by the Council. As each of the 5no. counterparts list that each counterpart constitutes a duplicate original, but all the counterparts together constitute the one Deed, I am satisfied that all relevant parties have entered into it. Consequently, there followed agreement by the main parties that RfR 6 is no longer in dispute. However, I return to the s.106 agreement later in my decision.
8. The Government published the 2023 Housing Delivery Test (HDT) results, alongside an updated revised National Planning Policy Framework on 12 December 2024 (the 2024 Framework). I have given the main parties the opportunity to comment on the 2024 Framework, and on the HDT results. Further revisions to the 2024 Framework have taken place on 7 February 2025 (the Framework), but as the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. This action will not prejudice any party and reference to the Framework throughout this decision is to the revised Framework.

Main Issues

9. Taking account of all of the above, the remaining main issues for this appeal are set out below:
 - the effect of the proposed development with regard to safeguarded land;

- whether the proposed development through its design and layout would result in a visually isolated form of development that would be harmful to the character and appearance of the appeal site and surrounding area; and,
- whether the proposed development through the design and location of the access road would result in crime or anti-social behaviour that would be prejudicial to the safety of future users, with particular regard to pedestrians and cyclists.

Reasons

Safeguarded land

10. The Appeal site comprises an agricultural field, which extends to approximately 5.03ha. The proposed access route from Mill Lane (the A49) would run through the adjacent field to the north of the main element of the Appeal site, which has been designated 'Safeguarded Land' (the SG Land) under Policy LPA05 of the St Helens Borough Council Local Plan, 2022 (the LP). The main area of the Appeal site is defined as 'white land', as it was not designated at the same time as the SG Land. In planning policy terms, the existing field has been subdivided into 2no. parcels of land, although in visual terms, the field currently appears as one unit.
11. There is agreement between the main parties that the element of the proposed development that would run through the SG Land would be contrary to Part 3 of LP Policy LPA05, albeit there is a difference in opinion to the level of adverse weight that should be attributed to this matter in the planning balance. The appellant considers that this conflict should attract limited adverse weight, whilst the Council considers the adverse weight to be significant. Part 3 of LP Policy LPA05 sets out other forms of development that would be considered acceptable, subject to 2no. criterion. These are where the proposal is necessary for the operation of existing permitted use(s) on the land, and for a temporary use that would retain the open nature of the land and would not prejudice the potential future development of the land for the purposes stated for each site¹. In the case of the SG Land, this is for a residential development, which has an approximate site area of 7.29ha with an indicative capacity for 191 dwellings.
12. The white land and the SG Land that form the existing field were once located within the Green Belt, until the entire field was removed from this designation. This was undertaken following the Green Belt Review December 2018, as part of the preparation of the LP². This parcel was then subdivided into 2no. sub-parcels, containing the agricultural field³ and land within Newton Brook Greenway⁴. In both instances it was considered that the sub-parcels made only a moderate contribution to the purposes of Green Belt land.
13. It is an agreed position between the parties that the reason the white land was not allocated, unlike the remainder of the field was due to a belief that the white land was affected by an historic landfill site and that access constraints could only facilitate what is now the SG Land to be developed. This was then again confirmed

¹ Table 4.14: Safeguarded Land for Housing (5HS - Land West of Winwick Road and South of Wayfarers Drive, Newton-le-Willows)

² Parcel Ref: GBP_045

³ GBP_045_A

⁴ GBP_045_B

by the Council's design witness in cross examination. As part of this appeal, it has been discovered that the concerns surrounding the historic landfill were incorrect and that a design solution for the access is possible that would enable the development of both the white land and the SG Land.

14. There is no doubt between the parties that LP Policy LPA05 is seeking to meet longer term development needs well beyond the LP period. However, in noting the respective positions of the parties, this includes the view from the Council that the proposed development would limit development of the SG Land through the location of the proposed access road. This is based on the assertion that any future development would be constrained through establishing the principal access route ahead of any full masterplan exercise.
15. In this regard, the Appellant has provided an indicative Masterplan⁵ as part of their submission. Whilst the Council has raised concerns over the potential approach taken, primarily due to a lack of a more central road through the SG Land, I accept that this indicative plan only seeks to demonstrate an approach to how the SG Land could be developed. If it was decided on a future scheme that a central road was required through the SG Land as part of the road hierarchy, I cannot see why such an approach could not be incorporated.
16. On this basis, I do not consider that the development of the Appeal site as proposed would be prejudicial to the successful future development of the SG Land, particularly as the proposed access road would be in a location that would have to act as a buffer to the railway line for any future residential development in any event. Consequently, it has been satisfactorily demonstrated that the SG Land could come forward as a second phase of development, following the development of the Appeal site.
17. For the reasons given above, I conclude that the proposed development would be contrary to Criterion 3 of LP Policy LPA05 due to a lack of compliance of the proposed access road through the SG Land. However, given my findings above surrounding the overall effect of the proposed development on the ability to develop the SG Land in the future, the proposed development would result in an overall limited conflict with LP Policy LPA05.

Character and appearance

18. The appeal site is broadly triangular in its shape, with it tapering towards its southern edge. Immediately to the north of the appeal site is the SG Land and residential development off Wayfarers Drive beyond. To the south and west of the appeal site is Newton Brook, where agricultural fields and Newton-le-Willows Cemetery are located beyond in a southerly direction, and residential development located beyond in a westerly direction. Immediately to the east of the appeal site is a railway line, with Willowbank School and Chomley Drive located between the A49. Further in this direction and beyond the A49 is the former Parkside Colliery site.
19. There is no dispute that residential development exists in the surrounding area, just that in the Council's view, the proposed development would result in an incoherent and poorly defined rural-urban fringe condition. There is agreement

⁵ CD01.01.43 - Planning Layout (North)_Masterplan) – 2030WHD/MLNIw-MPN01 Rev E

between the parties that the site is not subject to any policies in the Framework such as a valued landscape that protect areas or assets of particular importance.

20. Within the Landscape Character Assessment for St Helens 2006, the Appeal Site is located within LCT 12: Separate Settlement and further characterised within LCT 12 as SS1 Newton-le-Willows, which is described as 'Urban/Residential'. The key characteristics of SS1 are: Distinct settlement character; Developed settled land-use, primarily residential and physically separated from St Helens by rural or urban fringe landscape. The Appellant submitted a Landscape and Visual Appraisal⁶ (the LVA) with the planning application to which I have had regard.
21. The submitted LVA identifies the landscape and visual effects of the proposed development. There were discussions at the Inquiry surrounding the methodologies employed in the assessment of landscape and visual effects, which the LVA confirms was in accordance with the Guidelines for Landscape and Visual Assessment (Third Edition) 2013 (GLVIA3). I concur that the LVA has been undertaken broadly in line with best practice guidance as set out in GLVIA3. However, whilst there is a general agreement on the approach adopted in the LVA there was disagreement regarding the magnitude of visual effects.
22. The LVA identifies representative viewpoints used to assess the impacts and resultant effects of the proposed development on a range of views towards the site. No other viewpoints were suggested at the Inquiry. I consider that the study area encompassed by the viewpoints is appropriate for the consideration of the likely important effects of the proposed development on landscape character and views. I also viewed the site from the majority of locations identified in the LVA and am satisfied that I saw everything I need to assess the impact of the proposed development.
23. Within the evidence there is agreement between the parties to the appeal site being within an area characterised as urban-fringe, as it is influenced by features such as the surrounding development and railway line. In establishing the baseline, the LVA identifies the Appeal site, as having a low value in both its considerations with LCT12 and features within the site. The LVA then identifies the Visual Receptor Sensitivity being the highest from people using the Public Right of Ways (PROWs) with a value of the view as medium and a sensitivity of medium to high. Views from road users and rail users would be both low in terms of the view and low to medium in terms of sensitivity.
24. Following discussions at the Inquiry, I accept that the new access from the A49 to the site would result in the creation of an opening. Whilst this point of access/egress would be visible from this part of the A49, given similar features in the locality, this change would not result in any adverse visual effects. Additionally, views of the main part of the residential scheme would still be 'fleeting' as described in the LVA. Even if, views of the proposed development were seen, given the existing residential development in the surrounding area, this would not appear unusual.
25. Given the location and status of the adjoining SG Land, there would be an element of separation between the proposed development and existing residential development in the locality, particularly with the properties located on Wayfarers

⁶ Landscape and Visual Appraisal, Ref: M3360-LVA-22.05-V4 by Barnes Walker Ltd

Drive, which backs onto the SG Land. Nonetheless, taking into account other existing development in the locality, such as those properties located at Cholmley Drive, I consider that areas of residential development, similar to that proposed are already located in the surrounding area, albeit I accept the formation of the access arrangements differ.

26. Turning to the access road, the design of the junction with the A49 has not been drawn into dispute. Therefore, the main area of contention is the overall length of the access road from the A49 and the main residential element of the proposed development. I note the view from the Council that it would prefer the Appeal site to be considered, alongside the SG Land as part of a Development Plan review, which has some merit. However, I find the length of the access road in this instance is not sufficient at approximately 270 metres (m) to be considered excessive or result in an unacceptable distance between other residential development.
27. I accept that the proposed development would be visible from PROWs, to the west and south of the Appeal site, particularly PROW 606 as shown in Viewpoint 1 of the LVA and PROW 658 as shown in Viewpoints 2-5 in the LVA. However, any future development of the SG Land would also be experienced in a similar manner. Whilst the Council have expressed doubts regarding the future development of the SG Land given the current policy position, I am not as sceptical, as there is nothing before me to substantiate this view. As the SG Land has been identified for residential development to meet future needs beyond the current LP, its future development cannot be ruled out and therefore forms a material planning consideration.
28. The LVA predicts that the nature of the proposed development would generate a minor adverse effect on the landscape features in the Year 1. However, in the longer term, through the proposed landscape schemes becoming established, this is expected to generate beneficial effects upon the landscape features of the site and in turn upon the local landscape character. With regard to visual effects, the highest level of harm would be moderate in Year 1, with particular reference to the users of the PROW 658, although there are likely to be seasonal changes due to the extensive intervening vegetation, with views of the site reduced during the growing season. In all situations, it is expected that the proposed landscape schemes, particularly the tree planting would provide sufficient mitigation in Year 15 against any harms experienced in Year 1 of the proposed development.
29. As the Appeal site is currently undeveloped, I accept that the change in appearance occurring from this proposed development to landscape character, and visual amenity would be permanent. However, change itself does not necessarily equate to harm. Whilst, noting the Council's disagreements to some of the findings in the LVA, following my own site visits I agree with the overall conclusion of the LVA.
30. LP Policy LPD06 has been referenced by the Council in its evidence regarding prominent gateway corridors, which include 'A' roads and railway lines that cross the Borough. The purpose of Policy LPD06 is *"to protect, promote and enhance the image and unique local distinctiveness of St Helens Borough for its residents, visitors and for those who are passing through"*. Within its evidence⁷ the Council

⁷ CD4.7 – Paragraph 5.4

refers to fleeting or glimpsed views still being of strategic importance, which I consider to be the case in this instance. Given my findings above, the proposed development will not harm the overall impression of St Helens Borough. The Council has referred⁸ to the 2007 Design Guidance⁹ in its evidence regarding development adjoining an open landscape must be carefully sited. However, this requirement is echoed in the replacement Design Supplementary Planning Document¹⁰ (the 2024 Design SPD) that was adopted on 24 April 2024.

31. For the reasons given above, I conclude that the proposed development would not appear isolated, in either visual or spatial terms, and would therefore not harm character and appearance of the Appeal site or surrounding area. Consequently, the Appeal scheme accords with LP Policies LPD01 and LPD02 which seek to maintain or enhance the character and appearance of the local environment and be of a high-quality design and use good architecture that respects and/or enhances the character of the surrounding area, amongst other things. The Appeal scheme also accords with the overall aims and objectives of the 2024 Design SPD, and the requirements of paragraph 43 of the National Design Guide and the Framework, particularly paragraph 135 d).

Crime and/or anti-social behaviour

32. Safety concerns have also been raised by the Council in relation to the design and location of the access road, primarily due to no properties overlooking the 270m section along the SG Land. Within LP Policy LP01.1.e) there is a requirement for development to be located and designed so as to minimise opportunities for crime, for example by maximising natural surveillance and LP Policy LPD02.5. requires development to promote safe living environments that encourage natural surveillance and reduce the levels and fear of crime, disorder and anti-social behaviour.
33. The aims of the above policies are similar to the requirements contained within paragraph 135 f) of the Framework, which are to create places that are safe, where crime and disorder and the fear of crime, do not undermine the quality of life or community cohesion or resilience. Design and Crime Supplementary Planning Document, 2009 (the DC SPD) has been provided within the evidence. The scenario presented in this Appeal surrounding the access road is not directly referenced in the DC SPD. There are a number of references to natural surveillance, which is considered key on public routes to reducing crime in residential areas. Overall, I do not consider the 270m length of the access across the SG Land to be considerable and whilst it would not be directly overlooked, it would be straight and wide with good visibility, direct and convenient to use, lit during hours of darkness and adjacent to areas of activity.
34. I also acknowledge the reference by the Council to The Office for National Statistics Report (the ONSR): Perceptions of personal safety and experiences of harassment, Great Britain: 16 February to 13 March 2022¹¹. I do not necessarily disagree with the view that both men and women feel fairly or very unsafe across all settings after dark, particularly in a park or other open space and that a number of both men and women had stopped walking in such places as a consequence.

⁸ CD4.7 – Paragraph 5.20

⁹ Design Guidance Supplementary Planning Document (2007)

¹⁰ 3.2.1 g. on page 51

¹¹ CD4.7 – Paragraph 6.6

35. Nonetheless, I recognise that these are national findings, where situations will differ around the country and are not specific to the Appeal site or the surrounding area. In any event, the Council acknowledges within its evidence that the proposed street lighting along the access road would make it highly visible¹². Consequently, I am not convinced that the circumstances of the proposed development is directly comparable to the study areas of the ONSR.
36. Furthermore, the access road would run alongside the railway line, which would act as a barrier preventing people from entering the access road from this direction. The open nature of the SG Land would then provide users of the access road with good visibility of their surroundings, where they could easily assimilate the conditions and clearly see anyone approaching from this direction. Consequently, the fact that the 270m section of access road across the SG Land would not be overlooked would itself not be determinative in withholding permission, given the other factors in favour of this element of the proposed development.
37. For the reasons given above, I conclude that the proposed development would not result in circumstances that would give rise to crime and/or anti-social behaviour that would be prejudicial to the safety of future users, with particular regard to pedestrians and cyclists. Consequently, the Appeal scheme accords with LP Policies LPD01 and LPD02 which seek to minimise opportunities for crime and promote safe living environments, amongst other things. The Appeal scheme also accords with the overall aims and objectives of the DC SPD and the requirements of the Framework, particularly paragraph 135 f).

Planning obligation

38. The executed s.106 agreement that has been submitted, includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and paragraphs 56 and 58 of the Framework.
39. The s.106 contains various provisions and is made up of 5no. counterparts. Nonetheless, I am satisfied that the counterpart s.106 has been correctly executed and is legally valid. The s.106 secures policy compliant affordable housing in accordance with the terms set out in the application. The s.106 also secures financial contributions towards education and transport.
40. In view of the above, I consider the obligations set out in the s.106 are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Therefore, they meet the tests within CIL Regulation 122 and those set out in paragraph 58 of the Framework. As such, I have taken them into account in reaching my decision. Consequently, I conclude that the terms of the s.106 remove any previous conflict with the development plan, including RfR 6 on the Council's decision notice.

Other Matters

41. The Appellant has made their position clear on the proposed development, in that they do not rely on paragraph 11 d) of the Framework in their submission, albeit,

¹² CD4.7 – Paragraph 6.8

there is an obvious dispute between the parties surrounding the Council's Housing Land Supply (HLS) position, as outlined in their respective submissions, and through the discussions held on this matter at the Inquiry. However, given my conclusions on the main issues, it has not been necessary for me to consider matters surrounding HLS any further.

42. I have had regard to the considerable number of objections received from interested parties, as part of the original planning application, expressing a wide range of concerns including, but not limited to the following: highway safety; flood risk; infrastructure and Green belt, amongst other things. I also note the views expressed by those interested parties who attended the Inquiry, which included the Deputy Leader of the Council and a local resident. The local highway authority and United Utilities raise no objections to the proposed development, subject to the imposition of suitably worded conditions.
43. Furthermore, I do not doubt that there is demand on local services, such as local hospitals and doctor's surgeries and that the proposed development would likely add to the existing demand. However, there is nothing substantive before me to demonstrate that the current National Health Service funding mechanism is not sufficient in this instance. With regards to education, the proposed development would provide the required financial contributions through the s.106. These are material planning considerations of considerable weight. I also note that these matters were considered where relevant by the Council in the determination of the planning application and on the amended Appeal scheme. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
44. The parties have submitted a number of Appeal Decisions to support their respective positions, which I have noted and considered as material planning considerations. Included is an Appeal decision¹³ for a scheme within South Ribble Borough Council's boundary. This was supplied by the Council to support its position in relation to SG Land. I accept there are some similarities between this scheme and the proposed development. However, I am not satisfied that the circumstances are directly comparable, as the development was in a different area; involved more and a different type of development on SG Land and raised highway and pedestrian safety issues. Overall, the Decision's supplied do not alter my conclusions on the main issues and serve to demonstrate that each Appeal should be considered on its own particular planning merits, as I have done in this case.

Planning Balance

45. It is a requirement for this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would not appear isolated, either visually or spatially and therefore would relate well to the existing settlement. Furthermore, I have not found the design of the access road to be prejudicial to the safety of its future users. The proposed development would result in limited conflict with LP Policy LPA05. However, I have found that the proposed development would not prevent the satisfactory future development of the SG Land, whilst the creation of

¹³ APP/F2360/W/19/3234070

the new access onto the A49 could aid in its future delivery. There is no other identified conflict within the development plan.

46. The proposed development would be located in an accessible location and would make a significant contribution to the housing stock in the Borough. This also would accord with the Government's ambitions for housebuilding set out in the WMS¹⁴ and the Framework requirement to significantly boost the supply of homes. The provision of what is likely to be family homes would also generate additional social benefits, particularly through the affordable provision secured through the S.106. In addition, there would be economic benefits for the locality, both during construction and occupation of the dwellings.
47. In my view the benefits of the proposed development significantly outweigh the limited conflict with the development plan. I conclude therefore that these are material considerations which mean that in this case the proposed development can be determined other than in accordance with the development plan. I therefore conclude that the proposed development is suitable for the site.

Conditions

48. I have considered what planning conditions would be appropriate in light of the discussions at the event, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the Planning Practice Guidance. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans/documents is necessary.
49. Pre-commencement conditions for an overheating assessment; Air quality assessment; Air-borne dust; Proposed ground and floor levels; Contamination; Site access and associated A49 works; Phasing and logistics of construction; Landscaping and tree planting; Updated Landscape and Ecological Management Plan; Updated Arboricultural Report; Ecological avoidance measures; Invasive Species Method Statement; Surface water drainage, Railway risk assessment and method statement, Vibro-impact works, Earthworks and excavations, Combined sewer and the existing water main and Archaeological works are all reasonable and necessary in the interest of the living conditions of existing and future occupiers, highway safety, the environment, the railway, utilities and archaeology.
50. These pre-commencement conditions are agreed between the Council and appellant for the purposes of section 100ZA and regulation 2 of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018. In each case they are required pre-commencement as they are fundamental to the acceptability of the proposed development.
51. Pre-occupation conditions for Biodiversity Mitigation and Enhancement Measures; Noise; Visibility splays; Parking; Travel plan; Electric Vehicle Charging points; Drainage; Trespass proof fencing are reasonable and necessary in the interest of ecology, highway safety, sustainable travel, the environment and the railway.
52. Other conditions relating to Contamination; Materials; A local employment scheme; Links across Newton Brook; Public Rights of Way; Lighting; Construction

¹⁴ Written Ministerial Statement, dated 30 July 2024

Environment Management Plan; Development in proximity of the railway line; Renewable and Low Carbon Energy Statement; Public open space (POS) and Local Equipment Area for Play (LEAP) are all reasonable and necessary in the interest of living conditions, character and appearance, local economy, the environment, the railway, sustainable energy, to ensure the satisfactory delivery of POS and LEAP and local wildlife.

53. I have not imposed the suggested condition for Affordable housing as this is already covered within the s.106. It was also agreed at the Inquiry that the suggested condition for construction and breeding birds was not necessary as it is already covered under other legislation.

Conclusion

54. For the reasons given above, the appeal should be allowed.

W Johnson

INSPECTOR

Richborough

SCHEDULE OF CONDITIONS

Time Limit

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.

Approved Drawings/Documents

2) Plans

Site Layout 2030WHD/MLNlw-PL01 Rev K;

Mill Lane Location Plan Rev C

Storey Heights 2030WHD/MLNlw-SH01 Rev F

Refuse Strategy 2030WHD/MLNlw-RS01 Rev F

Boundary Treatment 2030WHD/MLNlw-BT01 Rev F

EV Charge Plan 2030WHD/MLNlw-EV01 Rev F

SCP/210034/D10 Rev A – Proposed Site Access

Landscape Masterplan, Land West of Mill Lane, Newton-le-Willows, Barnes Walker, May 2022, Drawing Ref: M3360-PA-01-V12, October 2024.

Planting Plan 1 of 3, Land West of Mill Lane, Newton-le-Willows, Barnes Walker, Drawing Ref: M3360-PA-02-V3, October 2024.

Planting Plan 2 of 3, Land West of Mill Lane, Newton-le-Willows, Barnes Walker, Drawing Ref: M3360-PA-02-V2, October 2024.

Planting Plan 3 of 3, Land West of Mill Lane, Newton-le-Willows, Barnes Walker, Drawing Ref: M3360-PA-02-V3, October 2024.

House Types

Aspen ASP-150-H-P1

Acacia ACA-H-P1

Candlewood CAN.2B643.P.H.0.1

Foxglove FXG-H-P1

Holly HOL-H-P1

Oakmere - 2.346.P.BU.L10.300 Rev A

Spruce Floor Plans SPR.4B1588.P.F.01

Spruce Elevations SPR.4B1588.P.H.01

Willow WIL-H-P1

Plum – PLU-150-P1

Coral COR-150-H-P1

Spindle SPI-150-P1

Almond ALM-150-H-P1

Prior to commencement

- 3) Prior to the commencement of the development, an overheating assessment shall be undertaken, submitted to and approved in writing to the Local Planning Authority. The assessment must demonstrate that the overheating risk can be suitably mitigated to avoid the need for opening windows during the night. The approved details shall then be implemented in full.
- 4) Prior to the commencement of the development, a detailed air quality assessment has been submitted to and approved in writing by the local planning authority using the EPUK and IAQM Guidance on land-use planning and development control: Planning for air quality (2017 v1.2). Any recommended mitigation measures shall be implemented in full prior to first occupation of the development.
- 5) Prior to the commencement of the development, a program of measures to minimise the spread of air-borne dust from the site during the construction period has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved scheme using the EPUK & IAQM Assessment of dust from demolition and construction (2023 guidance).
- 6) Prior to the commencement of development:
 - a) A Phase 1 site investigation and risk assessment shall be carried out to investigate the potential contamination issues associated with the site and the proposed development. The Phase 1 site investigation shall include a desk study, site walkover, human health and environmental risk assessment and an initial conceptual site model. A written report on the Phase 1 investigation shall be submitted to and approved in writing by the local planning authority.
 - b) A Phase 2 site investigation and risk assessment methodology, to assess the nature and extent of any contamination on the site, whether or not it originates on the site, shall be submitted to and approved in writing by the Local Planning Authority.
 - c) If contamination is found, a Phase 2 site investigation and risk assessment shall be completed in accordance with the approved methodology. A written report, including a remedial options appraisal, shall be submitted to and approved in writing by the Local Planning Authority.
 - d) If contamination is found, a detailed remediation strategy, which removes unacceptable risks to all identified receptors from contamination, shall be submitted to and approved in writing by the Local Planning Authority. The remediation strategy must include proposals for verification of remedial works. Where necessary, the strategy shall include proposals for phasing of

remedial works and verification. The approved strategy shall be fully implemented.

All such reports shall be completed by a competent person in accordance with government and Environment Agency guidance, namely “Land Contamination: Risk Management” (<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>).

- 7) Prior to the commencement of the development, a scheme for the design of the site access has been submitted to and approved in writing by the Council as the Local Planning Authority. The access shall be designed in accordance with the principles set out in the approved drawings. The approved scheme shall subsequently be constructed and completed prior to first occupation of the site. The access shall be kept available for use at all times. For the avoidance of doubt, the design works shall include:
- a) An assessment of the A49 carriageway in relation to the skid resistance – noting the conflict area created by the new junction and the proximity to the rail bridge etc;
 - b) Relocation of the proposed pedestrian crossing island to the southern side of the junction;
 - c) As the land falls away into the site, consideration should be given to retaining and embankment features as may be needed;
 - d) Gradient of the approach to Mill Lane should not exceed 1:40 for the first 15m into the site, measured from the nearside edge; and,
 - e) Confirmation of no utility services within connecting link between Mill Lane and emergency link.
- 8) Prior to the commencement of the development, a scheme for the design of the site access and associated A49 works has been submitted to and approved in writing by the Council as the LPA. The access and associated works shall be designed in accordance with the principles set out in the approved drawing SCP/210034/D10-Rev A and SCP/210034/D12. The approved scheme shall subsequently be constructed and completed prior to first occupation. The access shall be kept available for use at all times.

The works shall include:

- a) Drop kerb crossings at locations shown on plan SCP/210034/D12;
- b) Relocation of the pedestrian crossing shown on plan SCP/210034/D10-Rev A from the northern side of the junction to the southern side;
- c) No utilities shall be sited under the proposed new site access; and,

An assessment of the A49 carriageway in relation to the skid resistance.

- 9) Prior to the commencement of the development, a method statement comprehensively detailing the phasing and logistics of construction shall be submitted to and approved in writing by the Council as Local Planning Authority. The method statement shall include, but not be limited to:

Highways

Construction traffic routes, including provision for access to the site; Entrance / exit from the site for visitors / contractors / deliveries; Siting of temporary containers; Parking for contractors; Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of construction; Temporary road / areas of hard standing; Schedule for large vehicles delivering / exporting materials to and from site; Details of street sweeping / street cleansing / wheel wash; Hours of working; Noise mitigation and management measures; Phasing of works; Details of turning facilities for use by construction vehicles; and, Dust and air quality management and mitigation measures.

Noise

Specify the provisions to be made for the control of noise; Be based on the results of a Noise Assessment; Assure that, for fixed plant, the rating level of noise emitted from the site, measured at the closest boundary of the nearest residential dwellings, shall not exceed the existing background level; Assure that, for other operations on site, the rating level of noise shall not exceed the existing background level at the positions described above; and, BS5228: 2009+A1:2014 'Code of practice for Noise and Vibration Control Construction and Open Sites' shall be implemented on site. Measurement, assessment and works shall be made according to British Standard 4142:2014 and BS 5228.

In all instances the approved details shall then be implemented in full.

- 10) Prior to the commencement of the development, notwithstanding the details shown on the approved plans and the requirements of Condition 2 (Approved Plans) of this permission, updated landscaping and tree planting plans must be submitted to and be approved in writing by the Council as Local Planning Authority. These plans must provide additional information in relation to:
 - a) the construction of paths within the public open space areas, which must include cross sections showing construction profiles and materials, drainage information where relevant, and include the use of bitmac surfacing (which can be permeable bitmac) to improve resistance to flooding and allow all year access to people with a wide range of abilities;
 - b) In addition to the tree planting species, specifications, and establishment details, details of the trees planting along the western boundary of the access road and northern boundary of the site (within the blue edged area) shall be provided. This must include cross sections that show how kerbing and verge details will be integrated into the design (and include specifications) and must evidence how the tree planting will be maintained as part of any future development proposal for the wider site;
 - c) Tree pit specification must be provided and include a cross section design;
 - d) Hard landscaping design and specifications; and,
 - e) Phasing proposals for the delivery of any landscaping, which must include the delivery of all public open space / public realm landscape areas e.g. roads, verges and pavement areas, prior to the occupation of any

development on site. Planting within private garden areas must also be prior to occupation of any property, within any given phase.

All landscaping and tree planting detailed within any approved plans shall then be implemented in accordance with any approved phasing proposals for the landscaping. Any trees or plants, or grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size, species and quality.

- 11) Prior to the commencement of the development, an updated Landscape and Ecological Management Plan, including Ecology Management Schedules shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented in full. Details shall include:
 - a) How the site will be maintained i.e., how it is being resourced and who will be managing it (the exact management company may not be known but the mechanism for its management needs to be detailed);
 - b) Reference to how issues from residents will be dealt with, including any community consultation;
 - c) Detail clarifying that the plan will be for the lifetime of the development, and subject to 5-year reviews;
 - d) A plan clearly illustrating what areas the Landscape and Ecological Management plan is covering;
 - e) Updated references to any approved landscape and tree planting plans; and,
 - f) A strategy and specifications for the ongoing management of invasive weed species, particularly Himalayan balsam, on site.
- 12) Prior to the commencement of the development, an updated Arboricultural Report (to the current BS5837 standard) must be submitted to the Local Planning Authority. Details of tree constraints, tree removal, tree works, and tree protection plan (including any relevant method statements) must be provided. All tree protection measures then approved must be implemented prior to any construction commencing on site. The tree protection areas so defined shall be kept free of machinery, stored materials of all kinds and any form of ground disturbance not specifically catered for in the agreed measures, for the duration of site, demolition and building works.
- 13) Prior to the commencement of the development, an Invasive Species Method Statement shall be submitted and agreed in writing to the Local Planning Authority. The Method Statement shall include the following as a minimum:
 - a) A plan showing the extent of the plant;
 - b) The methods that will be used to prevent the plants spreading further, including demarcation;
 - c) The methods of control that will be used, including details of post-control monitoring; and,

- d) How the plants will be disposed of after treatment/removal. The development shall be constructed in accordance with the approved details.
- 14) Prior to the commencement of the development, a scheme for the disposal of surface water from the development shall be submitted to and approved in writing by the Local Planning Authority. The detailed drainage design shall set out a full specification of all related surface water connections, pond details with health and safety features, methods for directing surface and foul water away from the railway, details of how the drainage scheme will link to Newton Brook Local Wildlife Site and hydraulic flood modelling. The approved drainage scheme shall be implemented in full prior to first occupation of the development and retained thereafter for the lifetime of the development.
- 15) Prior to the commencement of the development, a method statement and risk assessment to ensure that the construction and subsequent maintenance of the proposed development can be carried out without adversely affecting the safety, operational needs or integrity of the railway, shall be submitted to and approved in writing by the council and Network Rail. The approved details shall then be implemented in full.
- 16) Prior to the commencement of the development, details of the means of ensuring the critical 525mm diameter combined sewer and the existing water main laid within the site boundary are protected from damage as a result of the development have been submitted to and approved by the Local Planning Authority in writing. The details shall outline the precise location of the assets, the potential impacts from construction activities, the impacts post completion of the development on the infrastructure and identify mitigation measures to protect and prevent any damage to the pipelines both during construction and post completion of the development. Any mitigation measures shall be implemented in full in accordance with the approved details.
- 17) Prior to the commencement of the development, including any vibro-impact works on site, a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority. The approved risk assessment and method statement shall be implemented in full.
- 18) Prior to the commencement of the development, full details of ground levels, earthworks and excavations to be carried out within 20 metres of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full.
- 19) Prior to the commencement of the development, a Written Scheme of Investigation (WSI) for archaeological works has been submitted to and approved in writing by the Local Planning Authority. The approved programme of archaeological works should be undertaken in accordance with the approved WSI including the approved phasing programme and the approved details shall then be implemented in full. The WSI must include the following steps:
- a) A phased programme and methodology of site investigation and recording;
 - b) A programme for post-investigation reporting to include production of a final report of the significance of the below-ground archaeological interest;

- c) Provision for appropriate publication and dissemination of the archaeology and history of the site;
- d) Provision for archive deposition of the report, finds and records of the site investigation;
- e) A timetable for the implementation of the different stages of the WSI; and,
- f) Nomination of a competent person or persons / organisation to undertake the works set out within the approved WSI.

20) Prior to the commencement of the development, a scheme of the proposed ground and floor levels for all the proposed dwellings and structures shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a number of sections across the site, which shall indicate existing and proposed ground levels, together with the finished floor levels of any proposed dwellings/buildings through which the sections run and shall extend beyond the site boundaries to include any surrounding adjacent properties. The approved details shall be implemented in full.

Prior to first use and occupation

- 21) Prior to first use and occupation of the development, details of Biodiversity Mitigation and Enhancement Measures to include number, type and location of bat boxes, bird nest boxes and hedgehog highways on an appropriately scaled plan as well as timing of installation, must be submitted to and be approved in writing by the Council as Local Planning Authority. The approved details shall be fully implemented, with evidence of implementation (i.e. photographs) submitted to the Local Planning Authority to enable the condition to be fully discharged.
- 22) Prior to first use and occupation of the development, none of the approved residential units shall be occupied unless they have first been constructed to ensure that they are adequately protected against external noise sources in accordance with the following:
- a) The construction accords with BS8233 'Sound Insulation and Noise Reduction for Buildings'.
 - b) Internal ambient noise levels in habitable rooms except bedrooms does not exceed 35dB LAeq,16 hour, between the hours 07:00 - 23:00, and within bedrooms does not exceed both 30 dB LAeq, 8 hour and L_{Amax} 45 dB more than 10 times between the hours 23:00 - 07:00.
 - c) Protection should also be provided to private open space/ garden areas such that noise exposure does not exceed 55dB LAeq 16 hour.
 - d) Exposure to vibration is no higher than of the values equivalent to "low probability of adverse comment" in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings'.
- 23) Prior to first use and occupation of the development, visibility splays of 2.4x65m to the north and 2.4mx80m to the south, as shown on SCP drawing number SCP/210034/D10-Rev A have been provided at the proposed junction. The

splays should be cleared to provide a surface no higher than 600mm above the level of the adjacent carriageway. Once created, the visibility splays shall be maintained clear of any obstruction and shall be retained at all times.

24) Prior to first use and occupation of the development, a residential travel plan shall be submitted to and approved in writing by the Council as Local Planning Authority. The plan shall include immediate, continuing, and long-term measures to promote and encourage alternative modes of transport to single-occupancy car. For the avoidance of doubt, the travel plan shall include, but not be limited to:

- a) Production and distribution of an information pack for residents detailing travel options and information for all modes of travel;
- b) Information on existing transport policies, services and facilities, travel behaviour and attitudes; Access for all modes of transport;
- c) Resource allocation including Travel Plan Coordinator and budget;
- d) A marketing and communications strategy;
- e) Appropriate measures and actions to reduce car dependence and encourage sustainable travel;
- f) An action plan including a timetable for implementation of each of the above; and,
- g) Mechanisms for monitoring, reviewing and implementing the travel plan.

The approved residential travel plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

An annual report shall be submitted to the Council no later than 1 month following the anniversary of first occupation of the development for a period of 5 years. The annual report shall include a review of the residential travel plan measures, monitoring data and an updated action plan.

25) Prior to first use and occupation of the development, each dwelling hereby approved it shall be provided with a smart Electric Vehicle Charging point, within an accessible distance of the in-curtilage parking space for that dwelling. All charging points in the scheme shall be compliant with The Electric Vehicles (Smart Charge Points) Regulations 2021 or subsequent legislation and shall be retained thereafter.

26) Prior to first use and occupation of the development, the areas indicated on the submitted plans to be set aside for parking and servicing shall be surfaced, drained, and permanently marked out or demarcated in accordance with the details and specifications shown in drawing number 2030WHD/MLNIw-PL01 Rev K and shall be made available for the property they would serve. The parking and servicing areas shall be retained as such thereafter and shall not be used in a manner that prevents the parking of vehicles.

27) Prior to first use and occupation of the development, details of a management and maintenance plan for the drainage system, including any arrangements for adoption by an appropriate public body or statutory shall be submitted to and

approved in writing by the Local Planning Authority. The agreed details shall be implemented in full for the lifetime of the development.

- 28) Prior to first use and occupation of the development, to protect the railway from unauthorised access and to ensure safety, details of a trespass proof fencing scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and maintained at all times thereafter.

Other

- 29) If contamination is found, a remediation verification report prepared in accordance with the agreed remediation strategy shall be submitted to and approved in writing by the Local Planning Authority. The remediation verification report shall be completed by a competent person in accordance with government and Environment Agency guidance, namely "Land Contamination: Risk Management" (<https://www.gov.uk/guidance/landcontamination-how-to-manage-the-risks>).
- 30) Prior to commencement of development above ground, details of the proposed facing materials, including any specification and coloured details of boundary treatments across the development, shall be agreed in writing with the Local Planning Authority. The development shall be constructed in accordance with the agreed materials.
- 31) Prior to commencement of development above ground, details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking areas have been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of each dwelling the hard surfacing areas relevant to that plot shall be installed in accordance with the approved details.
- 32) Prior to commencement of development above ground, a local employment scheme for the construction shall be submitted to and agreed in writing with the Local Planning Authority. The submitted local employment scheme shall demonstrate how the development will use all reasonable endeavours to recruit at least 20% of labour from within the Borough of St Helens focusing on the most deprived super output areas. The scheme shall include the following:
- a) Details of how the initial staff/employment opportunities at the development will be advertised and how liaison with the Council and other local bodies such as Ways to Work and the DWP Job Centre and Community Centre will take place in relation to maximising the access of the local workforce to information about employment opportunities;
 - b) Details of how sustainable training opportunities will be provided for those recruited to fulfil staff/employment requirements including the provision of apprenticeships or an agreed alternative;
 - c) A procedure setting out criteria for employment, and for matching of candidates to the vacancies;
 - d) Measures to be taken to offer and provide college and/or work placement opportunities at the Development to students within the locality;

- e) Details of the promotion of the local employment scheme and liaison with contractors engaged in the construction of the development to ensure that they also apply the local employment scheme so far as practicable having due regard to the need and availability for specialist skills and trades and the programme for constructing the development;
 - f) A commitment that the construction phase of the development will be undertaken in accordance with the Unite Construction Charter;
 - g) A procedure for monitoring the local employment scheme and reporting the results of such monitoring to the Council including details of the origins qualifications numbers and other details of candidates; and,
 - h) A timetable for the implementation of the local employment scheme. The development shall be implemented in accordance with the approved scheme.
- 33) Prior to commencement of development above ground, no development shall take place until a plan has been provided and agreed which identifies an area of safeguarded land to provide a future connection from internal footpaths within the application site to across Newton Brook. The areas shall remain safeguarded for the purposes of providing the agreed link across the brook.
- 34) No temporary or permanent fencing or excavation shall cause any obstruction or disturbance of the nearby Public Right of Way and no water from the development shall drain on to the nearby Public Right of Way.
- 35) Prior to commencement of development above ground, a lighting strategy for the development shall be submitted to the Local Planning Authority for approval. The strategy shall include but is not limited to the following:
- a) A strategy for the entire application site;
 - b) Detailed lighting designs;
 - c) Luminaire technical details;
 - d) Luminaire locations;
 - e) Illuminance levels;
 - f) Lighting standard achieved;
 - g) Control methods;
 - h) Proposed times of operation of lighting;
 - i) Details of timescales/triggers for installation;
 - j) Details of how the lighting is designed and positioned so that it protects ecology and does not result in excessive light spill onto important habitats; and,
 - k) The lighting shall be installed and retained in accordance with the approved scheme and maintained and retained thereafter.
- 36) The development shall be carried out in accordance with the Construction Environment Management Plan details (biodiversity) set out in section 5.3 of the

Ecological Survey and Assessment undertaken by ERAP dated December 2023 (ref: 2021-703).

- 37) Details of scaffolding works within 10m of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority prior to installation of any scaffolding in this area. The approved details shall be implemented in full.
- 38) Prior to commencement of development above ground, details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full.
- 39) Prior to commencement of development above ground, a Renewable and Low Carbon Energy Statement which details how the proposal will minimise carbon emissions equivalent to CSH level 4, i.e. 19% carbon reduction against Part L 2013 shall be submitted to and approved by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.
- 40) Prior to commencement of development above ground, a phasing plan linked to the delivery of the residential units, for the laying and management of the areas of public open space within the development layout, shall be submitted in writing to the Local Planning Authority for approval. The public open space shall be delivered no later than occupation of the 50th residential unit hereby approved. The public open space shall be provided and managed in accordance with the approved details and shall remain as public open space for the lifetime of the development.
- 41) Prior to commencement of development above ground, details of a Local Equipment Area for Play (LEAP) in the area of public open space as detailed on Site Layout - Drawing Number 2030WHD/MLNlw-PL01 Rev K shall be submitted to the Local Planning Authority for approval. The details shall include the scale, appearance, location, type and materials of the play equipment along with any surfacing materials and boundary treatments and management details for the LEAP and a phasing plan for the delivery of the play equipment linked to the delivery of the residential units which shall be upon practical completion of 50 units at the latest. The play area shall be provided in accordance with the approved details and retained as a public play facility thereafter.
- 42) Prior to any site preparation and during construction, the following reasonable avoidance measures should be put in place to ensure that there are no adverse effects on local wildlife, as the habitat on site is suitable for badgers, amphibians, and hedgehog:
- a) A pre-commencement check for Badgers;
 - b) Dense vegetation must only be cleared following an inspection by an ecologist. This is of relevance during the bird nesting season and to ensure checks are carried out for nesting and hibernating hedgehog (for example);
 - c) No trenches must be left open overnight. Trenches or holes must be fitted with a means of escape (such as ramped edge or a sloping plank of timber). This will ensure that any inquisitive animals do not become trapped. Holes or

trenches must be checked for wildlife prior to backfilling;

- d) Any pipes must be stored with caps on (to prevent animal entry);
- e) No fires must be lit at the site; and
- f) Any chemicals or harmful materials must be stored so that they cannot be accessed by inquisitive animals.

****End of Conditions****

Richborough

APPEARANCES

FOR THE APPELLANT:

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He called:

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INTERESTED PARTIES:

Cllr Seve Gomez-Aspron MBE

Deputy Leader at
St Helens MBC

Phillipa Simpson

Local Resident

INQUIRY DOCUMENTS

For the clarity, the below documents are the documents submitted at the Inquiry and are a numbered continuation of the Core Document list (4 – Inquiry Documents) on the website (weblink below), albeit with the prefix changed to ID from CD.

https://www.sthelens.gov.uk/media/9713/Core-Document-List/pdf/Core_Document_List_1_2.pdf?m=1730735180490

- ID4.14 - Opening Statement from Appellant
- ID4.15 - Opening Statement from Council
- ID4.16 - Access Site Map
- ID4.17 - C/2024/0126/CON Lead Local Flood Authority Response
- ID4.18 - Final Conditions
- ID4.19 - Closing Statement from Council
- ID4.20 - Closing Statement from Appellant

DOCUMENTS SUBMITTED WITH AGREEMENT AFTER THE INQUIRY

- ID4.21 - Signed s.106 agreement (5no. counterparts) dated 9 January 2025 (received Thursday 9 January 2025)
- ID4.22 - National Planning Policy Framework (2024) - Council comments
- ID4.23 - National Planning Policy Framework (2024) - Appellant comments